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CORPORATION dba AMTRAK and JOE DEELY

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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11 JOHN EARL CAMPBELL,

12 Plaintiff,

13 v.

14 NATIONAL RAILROAD PASSENGER
15 CORPORATION dba AMTRAK, JOE DEELY,
16 and DOES 1-15, inclusive,

17 Defendants.

Case No. C05-05434 MJJ

**DECLARATION OF CARA CHING-
SENAHA IN SUPPORT OF
DEFENDANTS' NATIONAL
RAILROAD PASSENGER
CORPORATION'S AND JOE DEELY'S
MOTION FOR SUMMARY
JUDGMENT, OR IN THE
ALTERNATIVE, SUMMARY
ADJUDICATION**

[Notice of Motion, Memorandum of Points
and Authorities, and Declarations in
Support of Motion concurrently filed]

Date: May 8, 2007
Time: 9:30 a.m.
Courtroom: 11
Floor: 19
Judge: The Hon. Martin J. Jenkins

Complaint Filed: 12/30/05
FAC Filed: 2/23/06
Trial Date: 7/23/2007

[Fed.R.Civ.Proc. 56]

25 I, Cara Ching-Senaha, declare on the basis of personal knowledge:

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27 1. I am an attorney with the law firm of Jackson Lewis LLP, counsel of record for
28 Defendants NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK and JOE

1 DEELY. I am licensed to practice law in the above-referenc rt. I make the
2 following statements based on personal knowledge.

3 2. I have reviewed in its entirety the transcript for Mr. John Campbell's deposition,
4 taken February 26, 2007. Attached hereto as Exhibit A are true and correct copies of select pages
5 from Mr. Campbell's deposition and select deposition exhibits, as referenced in Defendants'
6 Memorandum of Points and Authorities.

7 3. I have reviewed in its entirety the transcript for Susan Venturelli's deposition,
8 taken March 23, 2007. Attached hereto as Exhibit B are true and correct copies of select pages
9 from Ms. Venturelli's deposition, as referenced in Defendants' Memorandum of Points and
10 Authorities.

11 4. I have reviewed in its entirety the transcript for Joseph Deely's deposition, taken
12 February 15, 2007. Attached hereto as Exhibit C are true and correct copies of select pages from
13 Mr. Deely's deposition, as referenced in Defendants' Memorandum of Points and Authorities.

14 Executed this 3rd day of April, 2007 in San Francisco, California. I declare under penalty
15 of perjury under the laws of California and the United States of America that the foregoing is true
16 and correct.

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19 CARA CHING-SENAHA
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1 A. They've got these little valves on the bottom 03:39:11
2 of the locomotive near the wheels. If the wheels lock
3 up, you turn the valves, and it releases the brakes so
4 you can pull the locomotive, you know, without brakes.
5 Q. Okay. And is that true, Mr. Campbell? 03:39:25
6 MS. PRICE: Objection. Is what true?
7 THE WITNESS: Yeah. Is what true?
8 MS. MAYLIN: Q. Sure. The -- the charge that
9 you violated that rule?
10 MS. PRICE: Objection. Lacks foundation; 03:39:43
11 calls for speculation; vague as to "that rule."
12 MS. MAYLIN: Q. Do you understand what I'm
13 asking, Mr. Campbell?
14 A. I understand it, but you're wording it wrong.
15 Q. Okay. Well, why don't you correct me. I'm 03:39:57
16 not in the business like you are.
17 A. It's true I was charged with that violation.
18 Q. Okay.
19 A. That's the answer. It's true I was charged
20 with that violation. 03:40:08
21 Q. Okay. Is it true that you committed that
22 violation?
23 A. No.
24 Q. Okay. All right. Okay. I understand that
25 there was a formal hearing in response to that charge; 03:40:23

1 is that correct?

03:40:27

2 A. Yes.

3 Q. Do you recall when the hearing took place?

4 A. I don't have the exact dates.

5 Q. All right. A couple of months after the
6 incident?

03:40:35

7 A. Yes.

8 Q. Okay. And do you recall who the hearing
9 officer was?

10 A. I know the charging officer was Tim Sheridan.
11 The hearing officer I can't recall.

03:40:46

12 Q. Okay. How about Patrick Gallagher; does that
13 refresh your recollection?

14 A. Yes.

15 Q. And do you recall what decision Patrick
16 Gallagher came to?

03:40:58

17 A. Termination.

18 Q. Okay. All right. How many charges were you
19 charged with from that incident, do you recall?

20 A. I don't recall.

03:41:14

21 Q. Okay. All right. And did your union appeal
22 that decision?

23 A. Yes.

24 Q. Okay. And what was the finding of the appeal,
25 if you recall?

03:41:35

1 A. They upheld the company's position of 03:41:37
2 termination.

3 Q. Okay. Did you receive -- and was that by the
4 Public Law Board?

5 A. Say that again. 03:41:50

6 Q. Sure. Was that decision by the Public Law
7 Board?

8 A. I believe so.

9 Q. All right. And did you receive a copy of the
10 decision? 03:42:01

11 A. Yes.

12 Q. And I think I asked you, there was a hearing
13 where you testified; is that correct?

14 A. Correct.

15 Q. All right. And others testified as well? 03:42:17

16 A. One other person testified. Two people
17 testified.

18 Q. Okay. Who else testified?

19 A. I believe Dave West and Earl Friend.

20 Q. Okay. Did you hear Dave and Earl's testimony? 03:42:36

21 A. I read it later.

22 Q. When you read the testimony, did you form the
23 opinion that they had testified truthfully?

24 MS. PRICE: Objection. Lacks foundation;
25 calls for speculation; assumes facts. 03:42:49

1 of rules infractions? 03:54:33

2 A. No.

3 Q. Okay. Now that we've been talking about it
4 for a little bit, can you think of any other employees
5 who had more than two formal rules infractions and were 03:54:48
6 not fired?

7 A. At this time, I can't recollect. There are
8 some, but I can't recollect.

9 Q. What I'm marking -- oh, you know what, I
10 marked some other documents a while ago and didn't use 03:55:22
11 them.

12 (Whereupon, Defendants' Exhibit No.
13 12 was marked for identification.)

14 MS. MAYLIN: Q. Here's Exhibit 12,
15 Mr. Campbell, Bates-stamped D10292, Acknowledgement of 03:55:28
16 Receipt of Amtrak's Standards of Excellence. Sir, did
17 you sign that on September 30, '98?

18 A. Yes.

19 Q. Okay. And at that time, you received a copy
20 of the booklet, correct? 03:55:45

21 A. Correct.

22 (Whereupon, Defendants' Exhibit No.
23 11 was marked for identification.)

24 MS. MAYLIN: Q. Okay. And here is Exhibit
25 11, a one-page document, D10498. Mr. Campbell, is that 03:55:51

1 your signature there?

03:56:00

2 A. Yes.

3 Q. It's a receipt, and you received on -- it

4 looks like -- May 14, 2004, a copy of the "Service

5 Standards Reference Manual for Train Service and

03:56:10

6 On-Board Service Employees," correct?

7 A. Correct.

8 Q. Okay. And you understood that you were

9 responsible for reading and updating the manual, and you

10 had to follow the procedures, correct?

03:56:23

11 A. Correct.

12 Q. And that's true of all the booklets and

13 policies and procedures you received, you were

14 responsible for reading, understanding and following,

15 correct?

03:56:37

16 A. Correct.

17 (Whereupon, Defendants' Exhibit No.

18 19 was marked for identification.)

19 MS. MAYLIN: Q. All right. What I am marking

20 now as Exhibit 19 is a two-page document. It's a

03:56:43

21 September 17, 2004 letter to you signed by Patrick

22 Gallagher. There you go. And this is Mr. Gallagher

23 informing you that he finds that you were guilty of the

24 charges, correct?

25 A. Correct.

03:57:11

1 Q. Okay. And on page two, it details the charge 03:57:11
2 and the rule violation and the decision is to terminate
3 you from service effective immediately, correct?

4 A. Correct.

5 (Whereupon, Defendants' Exhibit No. 03:37:38
6 20 was marked for identification.)

7 MS. MAYLIN: Q. Okay. All right. And then
8 on your behalf, the UTU requested that the discipline be
9 expunged, correct? And here I've got a September 28,
10 2004 letter -- there you go, Mr. Campbell -- addressed 03:57:55
11 to the Director-Labor Relations, at Amtrak. It's from
12 a Mr. A.L. -- oh, I'm going to mispronounce it --
13 Suozzo, S-u-o-z-z-o. You received a copy of that,
14 Mr. Campbell?

15 A. Yes. 03:58:17

16 Q. All right.

17 (Whereupon, Defendants' Exhibit No.
18 21 was marked for identification.)

19 MS. MAYLIN: Q. And here what I've marked as
20 Exhibit 21 is a three-page letter, November 9, 2004. 03:58:40
21 It's directed to Mr. Suozzo, and it is from Larry
22 Hriczak, Director-Labor Relations, where the appeal on
23 your behalf is denied. You received that, Mr. Campbell?

24 A. Yes.

25 Q. Sir, during the hearing where you testified, 03:59:10

1 other applicants, correct?

05:13:41

2 MS. PRICE: Objection. Incomplete
3 hypothetical; assumes facts.

4 THE WITNESS: Yes.

5 (Whereupon, Defendants' Exhibit No.
6 23 was marked for identification.)

04:48:10

7 MS. MAYLIN: Q. I'm marking as Exhibit 23, a
8 two-page document. Here you go, Mr. Campbell. It's a
9 job reference 50173583. Have you seen this job posting
10 before, Mr. Campbell?

05:14:07

11 A. Yes.

12 Q. Okay. And this is the November 21, '03
13 posting, right?

14 A. Yes.

15 Q. Okay. And this is the one where you faxed
16 your resume over to Mr. Ho, right?

05:14:16

17 A. Yes.

18 Q. Okay. And, sir, do you have any reason to
19 dispute the -- well, that's going to be phrased badly.
20 Sir, you understood that the summary of duties here are
21 the duties that Amtrak requires their engineers to
22 perform, correct?

05:14:32

23 A. Yes.

24 Q. Okay. And you understood that the "Education"
25 criteria, which is the next paragraph, is the required

05:14:48

1 education for Amtrak engineers, correct? 05:14:54

2 A. Correct.

3 Q. And you understood that the "Work Experience,"
4 the next section is the work experience that's required
5 for Amtrak engineers or applicants to an Amtrak engineer 05:15:07
6 position, that they must have that, correct?

7 A. Correct.

8 Q. Okay. And under "Other Requirements," you
9 understood that those other requirements are also
10 necessary for an applicant to have who was trying for an 05:15:17
11 engineer position, correct?

12 A. Correct.

13 Q. Okay. And then on the second page, it says,
14 "Other." Then you understood that the applicant, or
15 successful applicant would undergo engineering training, 05:15:41
16 correct?

17 A. Correct.

18 Q. And then at the end, under "Job Notes" it
19 has a last day to apply category, years experience,
20 et cetera, you understood that those were additional 05:15:54
21 criteria for applicants, correct?

22 A. Correct.

23 Q. Okay. Under "Work Experience," sir, and also
24 it's listed in "Summary of Duties," you understood that
25 a successful applicant for an engineer position with 05:16:24